COMMONWEALTH OF KENTUCKY BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF NELSON VALLEY WATER ASSOCIATION, INC.) } CASE	NO.	90-236
	'		
ALLEGED VIOLATIONS OF KRS CHAPTER 278	Ś		

O R D E R

On April 25, 1990, a periodic inspection was made of Nelson Valley Water Association, Inc. ("Nelson Valley"), a non-profit, non-stock water association organized under KRS Chapter 271. The findings of the Commission's inspection were reduced to a report and sent to the utility on May 2, 1990 to obtain a response from Nelson Valley. That response was received on May 16, 1990.

According to the allegations contained in the report, Nelson Valley is charging to and collecting from its customers a \$20 meter test charge and a \$15 service charge that have not been approved by nor filed with this Commission. By Order entered August 21, 1990, the Commission initiated this investigation finding that a prima facie showing had been made that Nelson Valley was in violation of KRS 278.160 by charging rates which do not appear in its tariff and which have not been approved by this Commission.

Subsequent to the initiation of this case, Nelson Valley, through its counsel, contacted Commission Staff to negotiate a

proposed settlement resolving the issues in this case. The proposed settlement agreement attached hereto and incorporated herein as Appendix A was filed into the record on December 14, 1990. The settlement expresses Staff and Nelson Valley's agreement on a mutually satisfactory resolution of all the issues in this case.

In determining whether the results of the settlement agreement are in the public interest and are reasonable, the Commission has taken into consideration the admissions made by Nelson Valley in the settlement agreement and the steps taken by Nelson Valley to remediate and cure the outstanding violations. A review of the provisions of the settlement agreement reflects that all customers who were subject to the unauthorized charges in the past five years shall receive refunds undertaken by giving a credit on the first scheduled billing of the association after the Commission approves the settlement. Any former customer who is no longer receiving service from Nelson Valley will receive a cash refund from the utility within 14 days of a final order approving the settlement agreement.

After consideration of the proposed settlement agreement and being otherwise sufficiently advised, the Commission finds that the proposed settlement agreement is in accordance with the law and does not violate any regulatory principal. This settlement agreement is a product of serious arms-length negotiations among capable, knowledgeable parties, is in the public interest and results in a reasonable resolution of the alleged violations in this case.

IT IS THEREFORE ORDERED that the settlement agreement is hereby adopted and approved in its entirety as a reasonable resolution to the issues in this case. Nelson Valley shall adhere to and comply with all provisions of the settlement agreement.

As provided for in the settlement agreement, Nelson Valley shall provide the Commission with written certification of compliance with the terms of the settlement agreement within 90 days of the date of this Order.

Done at Frankfort, Kentucky, this 10th day of January, 1991.

PUBLIC SERVICE COMMISSION

Chairman

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COMMISSIONS

ATTEST:

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 90-236 DATED January 10, 1991.

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION OF NELSON VALLEY WATER ASSOCIATION, INC.))) CASE NO. 90-236
	}
ALLEGED VIOLATIONS OF KRS CHAPTER 278	Ś

PROPOSED SETTLEMENT

WHEREAS, Nelson Valley Water Association ("the Association") by Order of the Commission dated August 21, 1990, was directed to appear at a hearing before the Commission scheduled for September 28, 1990, in order to show cause why the Association should not be penalized pursuant to KRS 278.990 for the Association's failure to comply with the provisions of KRS 278.160 for improperly charging an amount in excess of the approved service charge of \$5.00 and for implementing a meter testing charge of \$20.00 without approval of the Commission; and

WHEREAS, the Association has taken certain actions in order to remediate and cure the outstanding violations, and

WHEREAS, counsel for the Association and counsel for the Commission have met and agreed to the following in order to resolve the alleged violations;

NOW, THEREFORE, it is resolved that:

1. The Association shall make no charge for meter testing until such time as such a charge is specifically approved by the Commission.

- 2. It is further stipulated that in the past, the Association has not charged a meter testing charge to any party although authorization for that charge was previously entered in the minutes of the Association. Specifically, by meeting of the Board of Directors dated September 20, 1990, the minutes of which are attached hereto as Exhibit A, the Association agreed to make no charge for meter testing or checking.
- The minutes of the Association dated September 20, 1990, З. authorized the Association to make refunds for any and all parties charged an amount in excess of \$5.00 as a service charge by the A copy of all parties who have been overcharged is attached hereto as Exhibit B. The refunds shall be undertaken by giving a credit on the first scheduled billing of the Association made on behalf of the Association by South Kentucky RECC after the approval of this agreement to the account of any such current customer. Any customer who was charged a service charge in excess of the authorized service charge and is not a current customer of the Association shall receive a cash refund from the treasurer of the Association within fourteen (14) days of approval of this Order by the Commission by mailing that refund check to the last known address of that customer. The Association will provide the Commission written certification of compliance with the provisions herein within 90 days of the date of the Commission's Order approving this Proposed Settlement.
- 4. The President of the Association, Valando Taylor, has attached his affidavit hereto as Exhibit C certifying that the Minutes of the Nelson Valley Water Association previously attached

are duly authorized and adopted Minutes of the Association and that the list of customers attached hereto is a true and correct list of all persons who have been overcharged according to the records of the Association.

- 5. This Proposed Settlement is submitted for purposes of this case only and is not deemed binding upon the parties hereto in any other proceeding, nor is it to be offered or relied upon in any other proceeding involving the Association or any other utility.
- 6. If the Commission issues an order adopting this Proposed Settlement in its entirety, the Association agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin Circuit Court from such order.
- 7. If this Proposed Settlement is not adopted in its entirety, the Association reserves the right to withdraw from it and require that hearings go forward upon all or any matters involved herein, and that in such event the terms of this settlement shall not be deemed binding upon the signatories hereto, nor shall same be admitted into evidence or referred to or relied on in any manner by any signatory hereto.
- 8. All of the parties hereto agree that the foregoing Proposed Settlement is reasonable and in the best interest of all concerned, and urge that the Commission adopt this settlement in its entirety.

AGREED TO BY:

Nelson Valley Water Association

NOU- 90-1990

Hon. D. Bruce Orwin Attorney for Nelson Valley Water Association

11/26/80 Date

Hon. Rebecta Goodman of Commission Staff

Minutes Nelson Valley Water Association Board of Directors September 20, 1990

The Board of Directors of Nelson Valley Water
Association met at Western Sizzlin Steak House, September 20,
1990 at 7:00 p.m. . Present were Volando Taylor, Joe Crow,
Joe Crawford, L. G. Colyer, Bobby Crow, and Bill Wesley.

The minutes of August 30, 1990 were read and approved.

Motion was made by L. G. Colyer and seconded by Joe Crawford to reaffirm any previous minutes concerning service charges which the Public Service Commission has ordered additionally, all service charges will be \$5.00. Also at present time there is not a charge for meter testing or checking.

Motion made by Joe Crawford and seconded by Joe Crow that in order to meet the requirements of the Public Service Commission we have identified all service charges for the past 5 years and will be all refunded in excess of \$5.00 as required by the Public Service Commission as soon as possible.

Nelson Valley Water Association & Pleasant Hill Water District have secured services of Bruce Orwin to work out the problems with the Public Service Commission.

R.E.C.C. requested that any change order be in writing. Everyone approved this request.

Meeting adjourned.

Respectfully submitted,

William C. Wesley, Accountant

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AFFIDAVIT OF VALANDO TAYLOR

- I; Valando Taylor, for my affidavit states as follows:
- l. That I am duly elected President of the Nelson Valley Water Association.
- 2. That the Minutes of the Nelson Valley Water Association dated September 20, 1990, are the duly adopted Minutes of the Nelson Valley Water Association and that the listing attached to this Affidavit is a list of all customers of the Association charged a service charge in excess of the authorized tariff for the Association.
- 3. That during the past five (5) years, the customers as set forth on the listing attached hereto have been charged a service charge in excess of the approved five dollar (\$5.00) service charge for the Association.

Further the affiant sayeth naught.

VALANDO TAYLOR THE

STATE OF KENTUCKY

COUNTY OF PULASKI

The foregoing Affidavit was this day subscribed and sworn to before me by Valando Taylor, President of Nelson Valley Water Association on this the 13 day of December, 1990.

NOTARY PUBLIC, STATE-AT-LARGE

My commission expires:

Exhibit C